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## OLR Bill Analysis

**sSB 863 (File 162, as amended by Senate Amendment “A”)\***

### ***AN ACT CONCERNING THE LICENSING OF SWIMMING POOL INSTALLERS.***

#### **SUMMARY:**

This bill requires people who build swimming pools to be licensed by the Department of Consumer Protection (DCP) and requires DCP to establish criteria for obtaining a license. The bill also extends existing penalties for contractors who work without a license to people who build, maintain, or repair swimming pools without a license. It specifies that swimming pool maintenance and repair work includes tiling and coping.

The bill also:

1. eliminates the requirement for state agencies to deliver notice for proposed regulations by mail, thereby allowing them to deliver such notices electronically;
2. gives state agencies the option of providing paper or electronic versions of proposed regulations to persons requesting them;
3. eliminates the requirement that DCP send notice of license expiration by mail, thereby allowing DCP to deliver notices electronically; and
4. repeals a 6.25% liquor administrative fee on package store, grocery store, and druggist permits and, creates an equivalent flat fee and adds it to the existing annual fees for these permits.

\*Senate Amendment “A” adds provisions allowing electronic delivery of certain documents and modifying a liquor administrative fee.

EFFECTIVE DATE: Upon passage for the swimming pool builder's license, October 1, 2011 for the electronic delivery and liquor fee provisions, and July 1, 2012 for the penalties and repair work definition.

### **SWIMMING POOL BUILDER'S LICENSE**

The bill requires the DCP commissioner to adopt regulations, by July 1, 2012, to establish the amount and type of experience, training, continuing education, and examination requirements for obtaining and renewing a license to build swimming pools.

Upon the adoption of regulations, the bill bans anyone from building a swimming pool, except on his or her own property, without being licensed by DCP as a swimming pool builder and registered as a home improvement contractor. The bill defines a "swimming pool" to mean a permanent spa or any in-ground or partially above-ground structure intended for swimming and is more than 24 inches deep. The initial license fee is \$150; the license is renewable annually for \$100.

The bill defines "swimming pool builder" as someone who, for monetary gain, excavates and grades for and constructs and builds a swimming pool, including, tiling, coping, decking, and installing associated circulation equipment such as pumps, filters, and chemical feeders. It prohibits anyone licensed as a swimming pool builder from performing electrical; plumbing and piping; or heating, piping and cooling work, unless he or she is licensed to do such work.

From the adoption of the regulations until January 1, 2014, DCP must issue a swimming pool builder's license without examination to anyone who applies and demonstrates the experience and training equivalent to what is required to qualify for the license examination.

### **LICENSE PENALTIES**

The bill extends to swimming pool builders and swimming pool maintenance and repair contractors the existing penalty statutes for contractors who work without a license. Currently, swimming pool maintenance and repair contractors are required to be licensed, but

there is no penalty for doing such work without a license.

The law prohibits unlicensed persons from willfully engaging in work that requires an occupational license. The prohibition also applies to willfully employing or supplying someone without a license, willfully and falsely pretending to qualify to practice a licensed trade, or willfully practicing work after license expiration.

The law authorizes the DCP commissioner to impose civil penalties for violating the licensing law. In addition, violators are guilty of a class B misdemeanor, an unfair or deceptive trade practice, and must pay restitution. If they cannot pay restitution, a court may sentence them to probation.

## **BACKGROUND**

### ***Civil Penalties***

Civil penalties for working without a license consist of a fine of up to (1) \$1,000 for a first violation, (2) \$1,500 for a second violation, and (3) \$3,000 for subsequent violations occurring less than three years after the previous violation.

### ***Criminal Penalty***

A class B misdemeanor is punishable by up to six months imprisonment, a fine of up to \$1,000, or both. Before anyone may be prosecuted for a licensing law violation, the law requires the consumer protection commissioner to (1) review the activity in question and (2) make a written determination that the activity requires a license and is not the subject of a bona fide dispute between members of a trade or craft, regardless of whether they are licensed.

### ***Connecticut Unfair Trade Practices Act (CUTPA)***

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary

statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

### **COMMITTEE ACTION**

#### General Law Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/10/2011)

#### Judiciary Committee

Joint Favorable

Yea 35 Nay 1 (04/26/2011)

#### Finance, Revenue and Bonding Committee

Joint Favorable

Yea 44 Nay 8 (05/10/2011)